THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No. 28139 of 1996

DATED: 17.02.2006

Between:

Ragam Jammaiah and others.

... PETITIONERS

AND

Land Acquisition Officer and Special Deputy Collector.

... RESPONDENT

ORDER:

The land of the petitioners in Survey No.364 of Jallaram Vilage, Kamanpur Mandal, Karimnagar District, was acquired by the Government, for the benefit of Singareni Collieries Company Limited. An award was passed on 02.06.1991 by the Land Acquisition Officer, respondent herein, determining the compensation at Rs.8,000/- per acre. Since there existed some disputes between the various claimants, reference was made to the Court of Senior Civil Judge, Peddapalli, under Section 30 of the Land Acquisition Act, 1894 (for short 'the Act'). It was taken up as O.P.No.10 of 1993. The Civil Court rendered its Judgment on 22.04.1994, determining the entitlement of the various claimants

to receive the compensation.

The petitioners submitted an application under Section 18 of the Act on 15.05.1994 to the respondent, with a request to refer the matter to the Civil Court, for enhancement of the compensation. Through memo, dated 27.07.1996, the respondent rejected the application, on the ground that it was filed beyond limitation. The same is challenged in this Writ Petition.

The petitioners contend that they were not served with any notice under Section 12(2) of the Act, and in that view of the matter, the time frame prescribed under the Act, for seeking reference under Section 18 of the Act, cannot be applied.

The respondent filed counter affidavit. It is stated that though notice under Section 12(2) of the Act was not issued, the petitioners were aware of the date of award, and they ought to have submitted application, within the time stipulated under Section 18(2)(b) of the Act.

Heard the learned counsel for the petitioners and the learned Government Pleader for Land Acquisition.

The respondent rejected the application of the petitioners for reference under Section 18 of the Act, only on the ground that it was not filed within the time frame stipulated under the Act. Section 18 of the Act mandates that the application for reference, disputing the quantum of compensation, must be filed, within a period of six weeks from the date of award, if it was made in the presence of the land owners; or within six weeks from the date of service of notice issued under Section 12(2) of the Act. Sub-section (2) of Section 18 of the Act is very clear on this aspect. In the instant case, the award was not passed in the presence of the petitioners. In the impugned memo itself, it was stated as under:

"No notice U/s.12(2) of the Land Acquisition Act has been

served on the petitioners."

Therefore, the time frame stipulated under Clauses (a) and (b) of Sub-Section (2) of Section 18 of the Act cannot be complied with, in the case of the petitioners.

In ***Spl.Dy.Collector, Singareni Colleries Co., Ltd vs. Dasari Ramulu***, a Full Bench of this Court held that the starting point for computation of the limitation stipulated under Section 18(2)(b) of the Act is the date of service of notice issued under Section 12(2) of the Act and unless such a notice is shown to have been served, the limitation cannot run. The principle squarely applies to the facts of this case. Further, the petitioners filed their application within a period of six weeks from the date of pronouncement of the Judgment in O.P.No.10 of 1993. Viewed from any angle, the stand taken by the respondent cannot be sustained in law.

Hence, the Writ Petition is allowed, and the impugned memo is set aside. The respondent is directed to make reference under Section 18 of the Act, in respect of the claim of the petitioners, to the Civil Court, within a period of two (2) months from the date of receipt of a copy of this order. There shall be no order as to costs.

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17.02.2006

Note: L.R.copy to be marked.

(B/o)

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***THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY**

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+ WRIT PETITION NO.28139 OF 1996

% Dated 17.02.2006

Ragam Jammaiah, S/o.Sailu, aged 45 years, Agriculturist, R/o.Jallaram Village, Kamanpur Mandal, Karimnagar District and others.

…….. PETITIONERS

$ Land Acquisition Officer and Special Deputy Collector, L.A.Unit, godavarikhani, Karimnagar District.

……. .RESPONDENT

! Counsel for the petitioners : Sri P.Prabhakar Reddy

^ Counsel for the respondent : Government Pleader for Land Acquisition

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? Cases referred